

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 09.10.2018

CORAM:
THE HON'BLE DR.JUSTICE S.VIMALA

W.P.No.11296 of 2018
and
W.M.P.Nos.13194 and 13391 of 2018

Sree Gokulam Chit &
Finance Co. (P) Ltd.,
No.66, Old No.356, Arcot Road,
Kodambakkam,
Chennai - 600 024.

... Petitioner

Vs.

1. The Deputy Commissioner of Labour-I
DMS Compound, Teynampet,
Chennai - 600 006.
2. The Assistant Commissioner of Labour,
DMS Compound, Teynampet,
Chennai - 600 006.
3. Karmegam

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari, to call for the records relating to the order passed by the first respondent dated 02.01.2018 in P.S.A.(A) No.1 of 2017 and to quash the same.

For Petitioner : M/s.D.Abdullah

For Respondents: Mr.N.Srinivasan,
Additional Govt. Pleader for R1 and R2
Mr.B.Haribabu for R3

O R D E R

This writ petition has been filed challenging the order passed by the appellate authority dated 02.01.2018 in P.S.A.(A) No.1 of 2017.

2. The learned counsel appearing for the Management submitted that in the light of the order passed by the Management dated 28.01.2012 by which, the workman was directed to report for duty on 13.02.2012, but, without noticing the important factor, the appellate authority has ordered payment of subsistence allowance and therefore, the order passed by the

appellate authority has to be set aside.

2.1. Yet another contention raised by the Management is that the appellate authority, only citing the order passed by the lower Court dated 14.12.2016, and without giving any reasons, passed the order, directing the Management to pay subsistence allowance to the workman, which is liable to be set aside.

3. The learned counsel appearing for the workman submitted that the workman is placed under suspension and the order dated 21.08.2012 passed by the Management does not indicate any revocation of suspension, therefore, the workman seems to be under suspension till 20.04.2015 and therefore, he must be permitted to withdraw the amount, that has already been deposited by the Management to the extent of Rs.7,16,961/-

4. A perusal of the order passed by the appellate authority reveals that while fact as mentioned by the Court below has been given, however, no reason has been assigned as to how the appellate authority too arrived at the conclusion. The order passed by the appellate authority is bereft of reasons. In such circumstances, the order passed by the appellate authority deserves to be set aside.

5. The order dated 28.01.2012 has been passed by the Management directing the workman to report for duty on 13.02.2012 before Manager (Admin), Tambaram Branch. By the said order, it only means that automatically, the suspension comes to an end. Once the order dated 21.08.2012 was passed by the Management, it is for the workman to have joined duty on 13.02.2012. But, the workman has not done so. Under such circumstances, this Court holds that the Management is liable to pay subsistence allowance only upto 13.02.2012 and for the further period as claimed by the workman, the Management is not liable to pay subsistence allowance. Therefore, the workman is permitted to withdraw a sum of Rs.2,81,405/- along with interest accrued thereon and the balance amount shall be withdrawn by the Management.

6. In the above terms, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The Deputy Commissioner of Labour-I
DMS Compound, Teynampet,
Chennai - 600 006.

2.The Assistant Commissioner of Labour,
DMS Compound, Teynampet,
Chennai - 600 006.

+1cc to Mr.D.Abdullah, Advocate, S.R.No.69937
+1cc to Mr.B.Hari Babu, Advocate, S.R.No.76012
+1cc to the Government Pleader, S.R.No.70587

W.P.No.11296 of 2018

CNR(CO)

rrs 03/01/2019



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